

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD JAMES MACNAB,

CIVIL CASE NO. 04-40291

Plaintiff,

v.

HONORABLE PAUL V. GADOLA
U.S. DISTRICT JUDGE

COMMISSIONER OF SOCIAL SECURITY,

Defendants.

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ORDER ACCEPTING REPORT AND RECOMMENDATION

Now before the Court is Plaintiff's "Motion to Dismiss Last Reapplication, filed on May 22, 2006, and the Report and Recommendation of Magistrate Judge Wallace Capel, Jr., filed on August 29, 2006. The magistrate judge's report and recommendation recommended that this Court dismiss Plaintiff's motion as moot. The Magistrate Judge also notified the parties that any objections must be filed within ten days of service. No party has filed objections to the report and recommendations.

The Court's standard of review for a magistrate judge's report and recommendation depends upon whether a party files objections. If a party does not object to the report and recommendation, the Court does not need to conduct a review by any standard. *See Lardie v. Birkett*, 221 F. Supp. 2d 806, 807 (E.D. Mich. 2002) (Gadola, J.). As the Supreme Court observed, "[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings." *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Because neither party filed timely objections to Magistrate Judge Capel's report and recommendation, *see* 28 U.S.C. § 636(B)(1)(c); Fed. R. Civ. P. 6(e), this Court need not conduct a review. However, to the extent necessary, this Court will modify the report and

recommendation such that Plaintiff's motion will be denied as moot, rather than dismissed as moot.

ACCORDINGLY, IT IS HEREBY ORDERED that the Report and Recommendation [docket entry 28] is **MODIFIED**; Plaintiff's "Motion to Dismiss Last Reapplication" [docket entry 19] is **DENIED AS MOOT**; the Report and Recommendation is otherwise **ACCEPTED** and **ADOPTED** to the extent that it is not inconsistent with this order.

SO ORDERED.

Dated: September 18, 2006

s/Paul V. Gadola

HONORABLE PAUL V. GADOLA
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on September 18, 2006, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Janet L. Parker, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: Ronald McNab.

s/Ruth A. Brissaud

Ruth A. Brissaud, Case Manager
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